

OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

Summit Gaddh,

Petitioner,

VS.

GEORGIA DEPARTMENT OF BANKING
AND FINANCE,

Respondent.

SUNNYMTG.COM866-768-CASH, LLC,

Petitioner,

GEORGIA DEPARTMENT OF BANKING
AND FINANCE,

Respondent.

Office of State Administrative Hearings
230 Peachtree Street, Suite 850
Atlanta, Georgia 30303

Thursday, December 18, 2008

The above-entitled matter came on for hearing pursuant to Notice, at 2:15 p.m.

BEFORE:

KIM SCHROER, Administrative Law Judge

APPEARANCES:

FOR THE PETITIONER:

CURT B. THOMPSON, Attorney at Law
6320 Glenbrook Drive
Tucker, Georgia 30084

FOR THE RESPONDENT:

OSCAR B. FEARS III, Assistant Attorney General
40 Capitol Square, S. W.
Atlanta, Georgia 30334

ALSO PRESENT:

SANDRA L. SHELEY, Director Mortgage Supervision
Georgia Department of Banking and Finance
2990 Brandywine Road
Suite 200
Atlanta, Georgia 30341-5585

1 P R O C E E D I N G S

2 JUDGE SCHROER: All right. Why don't we go on the
3 record. I'm just going to announce for the record's sake
4 that I'm Kim Schroer, administrative law judge with the
5 Office of State Administrative Hearings. And we're here
6 today on two consolidated cases, the first one being
7 SunnyMtg. -- is that how you refer --

8 MR. THOMPSON: Sunny Mortgage is usually how it's
9 said. But it is SunnyMtg.com, is the way it's spelled.

10 JUDGE SCHROER: Okay. And also Mr. Gaddh Sumit --
11 Gaddh? (Pronouncing)

12 MR. THOMPSON: Sumit Gaddh.

13 JUDGE HOWELLS: And those case numbers are 0903552
14 and 0903551. And I understand -- if you just would
15 introduce yourselves for the record. And then, also, I
16 understand that there's been a settlement which you plan to
17 put on the record. And I presume that it relates to both
18 cases; is that correct?

19 MR. THOMPSON: It does, Your Honor.

20 JUDGE SCHROER: Okay. All right.

21 MR. THOMPSON: It does. We would like -- And we
22 assume that we will get a copy of this in writing.

23 JUDGE SCHROER: The transcript will be prepared
24 and, I presume, paid for by the Department of Banking and
25 Finance; is that right?

1 MR. THOMPSON: Will I be able to get a copy of
2 that?

3 MR. FEARS: Yeah, you can get a copy of it.

4 JUDGE SCHROER: Okay.

5 MR. THOMPSON: Okay.

6 MR. FEARS: If it would be easier, I mean, after
7 we announce it on the record I would be more than willing to
8 actually just draft up an order.

9 JUDGE SCHROER: Sure.

10 MR. FEARS: It might be a little easier --

11 MR. THOMPSON: My understanding as the terms --
12 Maybe that would be better, if you would draft an order.
13 I'm going to announce what it is in open Court. And then if
14 we need to, in order to go through the fine points to make
15 sure it is -- we'll draft an order for you. Is that
16 agreeable to you, Your Honor, then?

17 JUDGE SCHROER: I think it's -- I'm happy to
18 dismiss the case based on the terms put on the record today.
19 My hesitation about waiting for an order is if you get
20 bogged down in the writing of this, I don't want this case
21 to materialize again in a different form because you can't
22 agree to the terms.

23 MR. THOMPSON: Right.

24 JUDGE SCHROER: I think if you announce it today
25 and we settle this case and we don't have a hearing today,

1 then this case goes away. Do you understand that? I mean,
2 so --

3 MR. THOMPSON: But you will provide us with a copy
4 of it? Since you get a copy of the transcript, you'll get a
5 -- you'll provide us with a copy of this particular portion?

6 MR. FEARS: I would be willing to do that. I
7 would really -- If possible, could we draft up an order then
8 and just hand-write an order today?

9 JUDGE SCHROER: Sure.

10 MR. FEARS: I mean, because I think we can do
11 that.

12 JUDGE SCHROER: Absolutely. Yeah, that's fine.

13 MR. THOMPSON: Do you still want me to announce
14 what I think the terms are?

15 MS. FEARS: Yes.

16 JUDGE SCHROER: All right.

17 MR. THOMPSON: Okay. With regards to Sumit Gaddh
18 vs. Georgia Department of Banking and Finance -- that's the
19 OSAH number 0903551-60 -- and someone correct me if I'm not
20 citing the right one. But I'm reading off the front of
21 Respondent's motion, so I think that that got it right.

22 That is an appeal of a cease and desist order. We
23 are withdrawing our appeal of the cease and desist order.

24 My client has agreed to abide by the cease and desist
25 order and has also been -- has had explained to him by

1 counsel that in addition to -- the cease and desist order
2 basically requires him to abide by the entire act including
3 those issues that became relevant here: specifically,
4 paying employees using W-2s, not 1099s; specifically, doing
5 background checks.

6 And it has also been explained that he -- to him,
7 both how to check and that he is not permitted to hire
8 someone who has a cease and desist -- who themselves has a
9 cease and desist order or is suspended or revoked or
10 otherwise ineligible to practice mortgage lending. And he
11 was advised that he could simply call the Department -- that
12 by contacting the Department of Banking and Finance or the
13 Real Estate Commission they can verify whether someone is,
14 in fact, on suspension or not. Is that --

15 MR. FEARS: It's just the Georgia Department --
16 The Real Estate Commission would not --

17 MR. THOMPSON: I'm sorry. The Georgia Department
18 of Banking and Finance.

19 MR. FEARS: That information is also online. It's
20 on the website, online.

21 MR. THOMPSON: It's also on an online website, so
22 he can check that. And that website would be www --

23 MS. SHELEY: GADBF -- Georgia Department of
24 Banking and Finance -- dot, org.

25 MR. THOMPSON: Dot org. Okay. So, he knows that

1 he can call. He can check that, and that he will abide by
2 that.

3 With regards to the second case, SunnyMtg.Com,
4 OSAH number 0903552-60, -- that's the second case -- the
5 Petitioner has agreed to a voluntary surrender of the
6 license of SunnyMtg.com on the following terms: Said
7 license will be voluntarily surrendered as of March 1st,
8 2009. All loans in process must receive -- must have
9 received -- sorry about that, I apologize -- a letter of
10 firm funding -- a firm funding commitment letter -- lender -
11 - on behalf -- I'm sorry. Loans in the pipeline submitted
12 to a lender must have a firm funding commitment from the
13 lender by the end of the day 12-31-08.

14 That allows -- So, there has to be a firm funding
15 by 12-31-08, but that -- if for whatever the reason the
16 closing has to be delayed, the business will not shut down
17 and the license will not surrender until March 1 of '09.
18 And that's regarding SunnyMtg.com.

19 I'm not sure if there are any other -- That's all
20 that we've got on that piece of paper.

21 MR. FEARS: I think there's one point of
22 clarification. The Department's view is the surrender was
23 effective immediately, today, but that Sunny Mortgage would
24 still be able to close lines -- close loans in the pipeline
25 as long as you had a firm funding commitment by the end of

1 December 31 and the loan is closed by March 1st.

2 So, that's -- To the extent there's any difference
3 -- I believe Mr. Thompson indicated that the volunteer
4 surrender was effective March 1. We would -- Our view is
5 that the voluntary surrender has to be effective today.

6 MR. THOMPSON: As a practical matter, I don't
7 think it makes -- I think it's a distinction without a
8 difference. I think. But, --

9 JUDGE SCHROER: But you agree to that?

10 MR. THOMPSON: But we agree to that, yes, because
11 it doesn't change the business -- the nature of the
12 business.

13 JUDGE SCHROER: Okay.

14 MR. THOMPSON: That said, you know, it is clear
15 that loans in process currently are not affected by that
16 surrender because -- based on the terms that we've come up
17 with.

18 JUDGE SCHROER: All right. So, do you want to
19 take some time and submit something to me by the end of
20 today? Take as much time as you need, and you could fax it
21 here and I could sign it if you want those terms
22 incorporated in my order. Otherwise, I can dismiss the case
23 based on the agreement of the parties as recorded on the
24 record.

25 MR. THOMPSON: Yes. My preference -- and this is

1 no offense to you because you have your own -- is that you
2 would go ahead and dismiss the cases, and that if you want
3 to give us ten days to submit an order in writing -- if we
4 don't submit that order in writing by ten days, it simply
5 goes with what the transcript says. That way if there's --
6 if we do get bogged down, we do have something on the record
7 and that will govern.

8 Do you have a problem with ten -- because I'm just
9 looking at the calendar and the need to get some -- I'm
10 looking at -- not the calendar, the clock.

11 MS. FEARS: What's your availability -- I'm sorry
12 -- that's one reason -- because I thought you were going on
13 vacation; aren't you?

14 MR. THOMPSON: I will be out of town December 31st
15 through January 5th. I'm here until then.

16 MR. FEARS: We have very -- Your Honor, I mean, --
17 regarding the closing the pipeline, we have very kind of
18 standard language because we have done this in the past.

19 JUDGE SCHROER: Okay.

20 MR. FEARS: And so, I should be able to get
21 something to Mr. Thompson within an hour of being back to
22 the office.

23 JUDGE SCHROER: All right.

24 MR. FEARS: So, it should, hopefully, be
25 relatively straightforward.

1 JUDGE SCHROER: I think that otherwise -- I'm
2 sorry, ma'am. You're not a party to this proceeding. Do
3 you have something you thought the Court needed to know?

4 UNIDENTIFIED FEMALE: Yes, ma'am.

5 JUDGE SCHROER: Okay. Are you in connection with
6 either of these parties?

7 UNIDENTIFIED FEMALE: I am a person who was on the
8 witness list today to speak.

9 JUDGE SCHROER: Okay. You can talk to one of the
10 attorneys that called you. And if they would like you to
11 speak, then that's fine. Otherwise you are not a party and
12 are not part of this proceeding.

13 (Unidentified female leaves courtroom with Mr.
14 Fears)

15 JUDGE SCHROER: Mr. Thompson, I think that's a
16 good solution. And what I'll do is I can issue an order
17 tomorrow morning. If I don't have anything from you guys by
18 tomorrow morning that dismisses it based on the agreement
19 that's on the record, --

20 MR. THOMPSON: Uh-huh (affirmative).

21 JUDGE SCHROER: -- but allowing the parties to
22 submit an amended order within ten days.

23 MR. THOMPSON: Within ten --

24 JUDGE SCHROER: If it's a consent order that the
25 language has been agreed on that spells out the terms in

1 writing, I'm happy to sign that. Otherwise, if there's some
2 problem getting it done in ten days, the order that I issue
3 tomorrow will stand.

4 MR. THOMPSON: And just, you know, being very
5 clear, it is a voluntary surrender that we're -- because
6 that has some legal significance that we're aware of; right?

7 JUDGE SCHROER: Right. Okay. All right. Let's
8 recess for one minute and let Mr. Fears come back in, and
9 then we'll be done.

10 MR. THOMPSON: Okay.

11 (Short break)

12 JUDGE SCHROER: Okay. Mr. Fears.

13 MR. FEARS: I have nothing to add, Your Honor.

14 JUDGE SCHROER: Okay. All right. So, it will be
15 as it stands on the record. I just will confirm what I
16 talked to Mr. Thompson about while you were stepping out,
17 that I will wait until tomorrow morning to issue the order
18 dismissing the case. If you get me something before then, I
19 will be happy to enter that as a consent order tomorrow.

20 I will also include in my orders that if you file
21 an amended consent order within ten days, I would reconsider
22 that motion and enter that amended consent order that has
23 the terms of your settlement written in it. Otherwise, that
24 order will be standing today.

25 MR. FEARS: And that's -- One other thing that I

1 think may have been mentioned by Mr. Thompson but I may have
2 missed it, when they indicate they would voluntarily
3 surrender -- Sunny Mortgage would voluntarily surrender its
4 license -- another condition was that it would never apply
5 again for another license.

6 MR. THOMPSON: Oh, I'm sorry. Yeah. Sunny
7 Mortgage is never going to apply again for -- SunnyMtg.com
8 is never going to apply for a -- I'm sorry. Sunny Mortgage
9 is never going to apply for a -- re-apply for a mortgage
10 lending license. I apologize.

11 JUDGE SCHROER: All right. Okay. Is there
12 anything else?

13 (No response)

14 JUDGE SCHROER: All right. Thank you very much.
15 You're dismissed.

16 MR. FEARS: Thank you, Your Honor.

17 JUDGE SCHROER: And I will wait to see what I get
18 tomorrow. Thank you.

19 (Whereupon, the proceedings were concluded at 2:28
20 p.m.)

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C E R T I F I C A T E

(STATE OF GEORGIA)

(COUNTY OF BUTTS)

I, Rachel C. Maddox, Certified Court Reporter, do hereby certify that the foregoing proceedings were taken down by be as stated in the caption; that the foregoing proceedings were reduced to print by me; that the foregoing represents a true and correct transcript of the proceedings.

I further certify that I am neither kin nor counsel to any of the parties and am not financially interested in the outcome of the action.

This 28th day of December, 2008.

RACHEL C. MADDUX, CCR, 2650